

HOUSE No. 1418

The Commonwealth of Massachusetts

PRESENTED BY:

Lida E. Harkins (BY REQUEST)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to alimony.

PETITION OF:

NAME:

Mr. Peter Ciriello

DISTRICT/ADDRESS:

4 Riverview Terrace
Dover, MA 02030

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO ALIMONY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 208 of the General Laws, as appearing in the 2006 official edition, is hereby amended by striking out section 34 and inserting in place thereof the following section:—

Section 34. Upon divorce or upon a complaint in an action brought at any time after a divorce, whether such a divorce has been adjudged in this commonwealth or another jurisdiction, the court of the commonwealth, provided there is personal jurisdiction over both parties, may make a judgment for either of the parties to pay alimony to the other. In addition to or in lieu of a judgment to pay alimony, the court may assign to either husband or wife any part of the estate of the other, including but not limited to, all vested and nonvested benefits, rights and funds accrued during the marriage and which shall include, but not be limited to, retirement benefits, military retirement benefits if qualified under and to the extent provided by federal law, pension, profit-sharing, annuity, deferred compensation and insurance. The court shall neither assign more than fifty percent of the marital estate to either spouse, nor assign more than fifty percent of one spouse's estate to the other spouse. In considering the payment of alimony, the court shall consider the ability of each spouse to earn a living and shall use this standard to decide the amount and duration of any payments, if any, to be awarded to either party. In awarding alimony, the court shall also consider who files for divorce and shall not endeavor to reward the party filing for divorce and to punish the party not filing or not desiring a divorce. The court shall consider the educational level of each spouse and the income that each spouse would have normally earned had they not been married. The court may also consider that each person has certain inherent capabilities and skills and that they have a human and constitutional right to own and benefit from those skills and capabilities. The court shall not be allowed to award earnings from one spouse to the other in an effort to create or sustain a lifestyle that might have existed in marriage, or to redistribute income so as to create an unfair situation where one spouse has a gain and other spouse has a loss. In no case shall either spouse lose certain civil and constitutional rights that they have had in marriage, nor should either party lose rights that they have as a free American citizen. The right to live life as a free American citizen including the right to change jobs, retire, change careers or to not work at all shall be

28 maintained as if the parties were still married. In this case, the party deciding not to work,
29 will also lose income and shall not be advantaged as compared to the other party. The
30 court may consider transitional alimony payments of up to two years to allow for an orderly
31 sale of property and assets and to allow for a reasonable life transition period. In no case
32 shall the court be allowed to financially punish one party over the other. In the case of the
33 award of transitional alimony, if any, the court shall not make an award that causes an
34 unfair distribution from one party to the other and in no case shall the higher earning
35 spouse have less net income than the lower earning spouse. When considering this
36 transitional alimony, if any, the court must consider the impact of income taxes, medicare
37 payments, social security payments, health care insurance deductions and any other legally
38 required payments that are deducted from income that serve to reduce the amount of
39 income available to either party to spend.